United States Department of Labor
Employees' Compensation Appeals Board

J.V., Appellant	)	
and	)	**Docket No. 15-102**
	)	**Issued: February 26, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Belvidere, IL, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 20, 2014 appellant filed a timely appeal from a June 11, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish a lung condition in the performance of her federal employment duties.

FACTUAL HISTORY

On February 18, 2014 appellant, then a 48-year-old letter carrier, filed an occupational disease claim alleging an aggravation of her pulmonary conditions as a result of her letter carrier duties. She specifically attributed the aggravation of pulmonary conditions to exposure to heat and cold while working outdoors eight hours a day. Appellant first noticed the condition and

[1] 5 U.S.C. § 8101 *et seq.*

realized that it was caused or aggravated by her employment on April 1, 2010. She was last exposed to conditions alleged to have caused or contributed to her medical condition on December 31, 2013.

In an undated supplemental statement, appellant explained that she delivered mail in extreme cold and hot weather conditions. During the winter months, she was outside for over eight hours delivering the mail. In extremely cold weather, appellant wore a mask but stated it was hard to keep her inhaler from freezing. In the summer months, she tended to use her inhaler more than twice a day because of exposure to flowers, cut grass, and bees/wasps. Appellant alleged that the cold and hot weather exposure made it hard for her to breathe. She developed pneumonia in January 2010, but did not know that she had it. Appellant believed it was just a bad cough from working outside. After undergoing some testing, she discovered that she had pneumonia along with lung scarring and problems. Appellant used the inhaler to control her asthma. She denied smoking or ever having any pulmonary conditions prior to working as a letter carrier.

Appellant submitted medical evidence.[2]

In a January 16, 2010 report, Dr. Shobha S. Iyengar, a Board-certified internist, noted that appellant had hoarseness of voice for the last five to seven days and was feeling depressed as her job had changed from working inside the post office to a city mail carrier. A diagnosis of acute rhinolarysitus and depression was provided. In a February 10, 2010 report, Dr. Iyengar noted a history of appellant's cough and runny nose when exposed to cold for a few weeks, that she is a nonsmoking mail carrier, and that she gets shortness of breath when walking. He diagnosed cough when exposed to cold weather, shortness of breath when exposed to cold weather, and chronic allergic rhinitis was provided. In a March 1, 2010 report, Dr. Iyengar diagnosed exacerbation of reactive airway disease and heart burn. In a March 25, 2010 report, he diagnosed positive mycoplasma antibodies and referred appellant to a pulmonologist.

In an April 1, 2010 report, Dr. Fredric C. Kullberg, a Board-certified internist, noted appellant was a lifelong nonsmoker seen for evaluation of persistent paroxysmal cough that developed in December 2009 which she attributed to the time she changed her occupational duties from inside postal clerk to outside letter carrier. He reported that her symptoms persisted throughout the winter. Appellant had no previous history of asthma although she developed seasonal allergies and a runny nose and itchy eyes approximately four years ago for the first time. Dr. Kullberg diagnosed parosysmal cough, probably multifactorial, including a major component from acute and chronic rhinitis with postnasal drip syndrome, but likely also related to underlying infiltrative process in the lungs of unknown age with a positive mycoplasma antibody lite and also likely atypical pneumonia due to mycoplasma. An impression of cystic infiltrate changes in the upper lobe was provided.

[2] The evidence included diagnostic studies and laboratory reports from March 9, April 1, June 10 and 19, July 8, and June 22, 2010, January 4, 2014; March 4, 23, and 24, and June 10, 2010, July 9, 2012 chest x-ray reports, March 2003 and March 30, 2010, May 5, 2010, July 9, 2012, and January 7, 2013 computerized tomography (CT) chest report, May 2005 and December 10, 2010 June 2, 2011 chest CTs; a June 11, 2010 surgical pathology report; May 25 and December 15, 2010, January 5 and July 12, 2012, February 26, 2013 and January 31, 2014 progress notes from an unidentified provider; and an undated medication information note.

On June 10, 2010 Dr. Kullberg performed a flexible fiberoptic bronchoscopy with transbronchial biopsy and bronchoalveolar lavage which did not provide a specific diagnosis. In a December 15, 2010 report, he stated that the source of appellant's interstitial lung disease remained obscure and he believed eosinophilic granuloma was still a consideration along with possible "burnt out" sarcoidosis or previous hypersensitivity pneumonitis.

In a January 5, 2012 report, Dr. Kullberg noted that appellant reported her breathing had done well recently and she had little trouble over the summer with the hot weather. Appellant still had some cough and postnasal drainage but this was better as well. Examination and diagnostic findings were provided. Dr. Kullberg noted the differential considerations would include Langerhan cell histiocytosis, old sarcoidosis, connective tissue disease or previously hypersensitivity pneumonitis.

Dr. Kullberg reported on July 12, 2012 that appellant had been having considerable difficulty doing her mail route with the very hot weather. He noted that she had gained almost 20 pounds in weight since January which was probably contributing to her difficulty. Examination findings were noted as well as suggestions to help appellant lose weight.

In a February 11, 2014 report, Dr. Kullberg indicated that he had been treating appellant for significant pulmonary problems since April 2010. Appellant suffered from reactive airways disease/asthma which was well controlled along with an extensive type of interstitial lung disease in her upper lung zones with interlobular and interlobar septal thickening and some honeycomb formation which had not progressed radiographically but was quite extensive since 2010 and could represent one of several idiopathic pulmonary conditions including eosinophilic granuloma, sarcoidosis, or hypersensitivity pneumonitis. Dr. Kullberg opined that appellant was very sensitive to hot or cold ambient weather conditions, and either extreme could cause severe exertional dyspnea. This could be a significant determent in her work as a postal letter carrier.

In a letter dated March 19, 2014, OWCP advised appellant that the evidence of record was insufficient to establish that her pulmonary conditions were causally related to her work as a mail carrier. Appellant was afforded 30 days to submit a response to OWCP's questions regarding the factual aspects of the claim and to submit medical reports from an attending physician, which included an explanation of how her work activities caused, or aggravated her medical conditions.

In a March 27, 2014 report, Dr. Kullberg advised that he had been following appellant since May 2010 when she was seen in pulmonary consultation regarding severe paroxysmal cough. He noted her medical course and stated that the exact nature of the bilateral upper lobe infiltrates had not been clearly defined. The transbronchial biopsy did not show specific pathology. However, the evidence suggested sarcoidosis or Langerhans cells histiocytosis. Dr. Kullberg noted that appellant had declined to undergo a surgical lung biopsy, but that there may not have been great therapeutic value in this approach. Appellant had been treated for suspected reactive airways with significant improvement in cough and wheeze, although she remained very sensitive to the effects of cold air, which produced cough, marked shortness of breath, and some wheezing. She improved dramatically when she was off of work for a month.

Dr. Kullberg noted that appellant's clinical course had been one of improved exertional dyspnea using prescribed medicine and inhaler. He opined that she suffered from reactive

airways/asthma, although spirometry had not shown clear-cut obstructive impairment. Appellant suffered extensive unexplained upper lobe fibrotic change, which had not progressed in four years, and may be due to Langerhans cell history of cytosis, hypersensitivy pneumonitis, or sarcoidosis. Dr. Kullberg opined that appellant's condition was not caused by her employment, but rather from environmental factors.

In a decision dated June 11, 2014, OWCP denied the claim on the grounds that fact of injury had not been met because appellant had failed to respond to the March 19, 2014 development questionnaire. It further found that the medical evidence did not establish a diagnosed medical condition causally related to the work injury or event.

LEGAL PRECEDENT

An employee who claims benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[4]

To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[5]

An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.[6] An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, as alleged, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.[7] An employee has not met his or her burden of proof establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient

[3] *C.S.*, Docket No. 08-1585 (issued March 3, 2009).

[4] *S.P.*, 59 ECAB 184 (2007).

[5] *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

[6] *R.T.*, Docket No. 08-408 (issued December 16, 2008); *Gregory J. Reser*, 57 ECAB 277 (2005).

[7] *Gene A. McCracken*, Docket No. 93-2227 (issued March 9, 1995); *Joseph H. Surgener*, 42 ECAB 541, 547 (1991).

doubt on an employee's statement in determining whether a *prima facie* case has been established.[8]

The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[9] Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[10] The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.[11]

ANALYSIS

Appellant alleged her pulmonary conditions were aggravated due to her work duties as a mail carrier requiring her to be exposed to heat and cold, eight hours a day. OWCP denied her claim, finding insufficient factual and medical evidence to establish that she sustained a medical condition as a result of those employment duties. The Board finds that appellant's duties as a letter carrier did expose her to hot and cold weather while delivering mail but she has failed to establish these employment factors caused or aggravated her diagnosed pulmonary conditions.

In reports dated January to March 2010, Dr. Iyengar diagnosed cough, shortness of breath, chronic allergic rhinitis, and exacerbation of reactive airways disease. Cough and shortness of breath is generally a description of a symptom, not a firm medical diagnosis.[12] While Dr. Iyengar diagnosed medical conditions of chronic allergic rhinitis and exacerbation of reactive airways disease during exposure to cold weather, his medical reports are not supported by medical rationale to explain the nature of the relationship between the diagnosed condition and the employment factors identified in this case, namely how hot and cold temperature exposure resulted in the diagnosed condition.[13]

Dr. Kullberg noted appellant's symptoms, his examination findings, and results of objective testing. However, he could not relate the cause of her persistent parosysmal cough or limited upper lobe interstitial lung disease to appellant's federal duties. Rather, Dr. Kullberg stated the source of her interstitial lung disease remained obscure. He indicated that her interstitial lung disease may be caused by eosinophilic granuloma, sarcoidosis, or hypersensitivity pneumonitis. While Dr. Kullberg stated that appellant's exposure to hot or cold ambient weather conditions could cause severe exertional dyspnea, which could be a significant

[8] *Betty J. Smith*, 54 ECAB 174 (2002).

[9] *J.Z.*, 58 ECAB 529 (2007).

[10] *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

[11] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

[12] *See E.B.*, Docket No. 13-1705 (issued January 8, 2014).

[13] *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

determent in her letter carrier work, failed to provide a rationalized opinion explaining the causal relationship between appellant's interstitial lung disease and employment.[14]

The remainder of the medical evidence, including reports of diagnostic testing and studies, are insufficient to establish the claim as they fail to provide an opinion on the causal relationship.

On appeal, appellant contends she did not have any health issues before she became a city letter carrier. However, the medical evidence of record is insufficient to establish a causal relationship between her diagnosed medical conditions and the duties of her federal employment.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained a lung condition in the performance of her federal employment duties.

ORDER

IT IS HEREBY ORDERED THAT the June 11, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 26, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

[14] *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).